

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ESSAM E. BABKKIR,

Plaintiff,

vs.

No.: 2:21-CV-00348-RJC

OLGA V. SCHILK AND DIEBOLD
NIXDORF,.

Electronically Filed

Defendants.

LOKMAN MOHAMED,

Plaintiff,

vs.

No.: 2:22-CV-00522-RJC

ESSAM E. BABKKIR AND EDIRGAWI
TRANSPORT, INC.

Electronically Filed

Defendants/Third Party
Plaintiffs

Vs.

OLGA V. SCHILK AND DIEBOLD
NIXDORF, INC.,

Third Party Defendants.

MOTION TO CONSOLIDATE

Plaintiff/Defendant/Third Party Plaintiff Essam E. Babkkir, and Defendant/Third Party Plaintiff Edirgawi Transport, Inc., by and through their undersigned counsel, file the following Motion to Consolidate and, in support thereof, aver and submit as follows:

1. These two cases involve civil actions arising out of an accident on February 12, 2022 on Interstate 80 in Jefferson County, Washington Township, Pennsylvania as set forth in the pleadings in both cases.

2. In the case docketed at 2:21-cv-00349-RJC, which is before the Honorable Robert J. Colville, Plaintiff Essam E. Babkkir's filed a Complaint seeking to recover for injuries and damages against Olga V. Schilk and Diebold Nixdorf. A Counterclaim has been filed by Diebold Nixdorf, Inc. seeking to recover for damages to the vehicle operated by Defendant Schilk and owned by Diebold Nixdorf, Inc. This case was commenced on March 15, 2021.

3. In the case docketed at 2:22-cv-00522-AJS, which is now before the Honorable Robert J. Colville as well, Plaintiff Lokman Mohamed filed a complaint seeking to recover for injuries and damages against Essam E. Babkkir and Edirgawi Transport, Inc. This case was filed in the Court of Common Pleas of Philadelphia County, Pennsylvania, removed to United States District Court for the Eastern District of Pennsylvania, and has now been transferred by the Eastern District to the Western District after the disposition of Defendants Babkkir and Edirgawi Transport, Inc.'s Motion to Transfer. Defendants Babkkir and Edirgawi Transport, Inc. as part of their answer and affirmative defenses to Plaintiff Mohamed's complaint filed a third party complaint against third party defendants Olga V. Schilk and Diebold Nixdorf, Inc. A response/answer has not been filed to the third party complaint to date as it is not due until April 25, 2022. This case was commenced on January 21, 2022.

4. Mr. Babkkir and Edirgawi Transport, Inc. submit that the two (2) civil actions above involve common questions of law and fact and arise from the same transaction or occurrence. It is further submitted that a consolidation of the two (2) civil actions above would avoid unnecessary cost and/or delay.

5. Consolidation of these two (2) cases is permitted by Federal Rule of Civil Procedure 42(a)(2).

6. All parties to these two cases consent to this Motion to Consolidate.

WHEREFORE, it is respectfully requested that this Court grant the Motion to Consolidate and that the Court consolidate the two cases for discovery and trial and order that the two cases proceed before the Honorable Robert J. Colville and that all further filings shall be filed at 2:21-cv00348-RJC.

Respectfully submitted,

/s/ John W. Zotter

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